

**0** **NAL**

1 Anna Y. Park (CA SBN 164242)  
2 Derek W. Li (CA SBN 150122)  
3 Amrita Mallik (CA SBN 249152)  
4 U.S. EQUAL EMPLOYMENT  
5 OPPORTUNITY COMMISSION  
6 255 East Temple Street, Fourth Floor  
7 Los Angeles, CA 90012  
8 Telephone: (213) 894-1083  
9 Facsimile: (213) 894-1301  
10 Email: lado.legal@eeoc.gov

11 Attorneys for Plaintiff  
12 U.S. EQUAL EMPLOYMENT  
13 OPPORTUNITY COMMISSION

14 CAROL A. STATKUS  
15 Assistant United States Attorney  
16 United States Attorney's Office  
17 for the District of Wyoming  
18 2120 Capitol Avenue – 4<sup>th</sup> Floor  
19 Cheyenne, WY 82001  
20 Telephone: (307) 772-2124  
21 Email: Carol.Statkus@usdoj.gov

22 **UNITED STATES DISTRICT COURT**  
23 **DISTRICT OF WYOMING**

24 U.S. EQUAL EMPLOYMENT  
25 OPPORTUNITY COMMISSION,

26 Plaintiff,

27 vs.

28 HD SUPPLY, INC., and DOES 1-10,  
Inclusive,

Defendant(s).

Civil Action No.:

09 CV 0485

**COMPLAINT – TITLE VII  
CIVIL RIGHTS**

- **HOSTILE WORK  
ENVIRONMENT BASED ON  
SEX (FEMALE)**
- **RETALIATION**

**DEMAND FOR JURY TRIAL**

1 This is an action under Title VII of the Civil Rights Act of 1964 and Title I  
2 of the Civil Rights Act of 1991 to correct unlawful employment practices on the  
3 basis of sex (female) and retaliation, and to provide appropriate relief to Charging  
4 Party Donna Morfeld ("Charging Party") who was adversely affected by such  
5 practices. Plaintiff, U.S. Equal Employment Opportunity Commission ("EEOC"  
6 or "Commission"), alleges that Defendants discriminated against the Charging  
7 Party through constant harassment on the basis of sex (female). The Commission  
8 further alleges that Defendants were aware of the discriminatory conduct but  
9 failed to take adequate steps to prevent it from continuing, resulting in a hostile  
10 work environment. The Commission further contends that defendants subjected  
11 Charging Party to retaliation in the form of continuing and increased harassment  
12 after she complained about the discriminatory conduct.

#### 13 JURISDICTION AND VENUE

14 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 451, 1331,  
15 1337, 1343 and 1345.

16 2. This action is authorized and instituted pursuant to §§ 706(f)(1) and (3)  
17 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-  
18 5(f)(1) and (3) ("Title VII") and § 102 of the Civil Rights Act of 1991, 42 U.S.C.  
19 § 1981a.

20 3. The employment practices alleged to be unlawful were and are now  
21 being committed within the jurisdiction of the United States District Court for the  
22 District of Wyoming.

#### 23 PARTIES

24 4. Plaintiff, the EEOC, is the agency of the United States of America  
25 charged with the administration, interpretation and enforcement of Title VII, and  
26 is expressly authorized to bring this action by §§ 706(f)(1) and (3) of Title VII, 42  
27 U.S.C. §§ 2000e-5(f)(1) and (3).  
28

1           5. At all relevant times alleged herein, Defendant HD Supply, Inc.  
2 (“Defendant HD Supply”) has been continuously doing business in the State of  
3 Wyoming and the City of Gillette. Defendant HD Supply has employed at least  
4 fifteen (15) employees.

5           6. At all relevant times alleged herein, Defendant HD Supply has  
6 continuously been an employer engaged in an industry affecting commerce within  
7 the meaning of §§ 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-1(b), (g)  
8 and (h).

9           7. All of the acts and failures to act alleged herein were duly performed by  
10 and attributable to all Defendants, each acting as a successor, agent, alter ego,  
11 employee, indirect employer, joint employer, integrated enterprise, or under the  
12 direction and control of the others, except as specifically alleged otherwise. Said  
13 acts and failures to act were within the scope of such agency and/or employment,  
14 and each Defendant participated in, approved and/or ratified the unlawful acts and  
15 omissions by the other Defendants complained of herein. Whenever and wherever  
16 reference is made in this Complaint to any act by a Defendant or Defendants, such  
17 allegations and reference shall also be deemed to mean the acts and failures to act  
18 of each Defendant acting individually, jointly, and/or severally.

19           8. Plaintiff lacks information as to the true names and capacities of each  
20 Defendant sued as DOES 1 through 10, inclusively, and therefore Plaintiff sues  
21 said defendant(s) by fictitious names. Plaintiff reserves the right to amend the  
22 complaint to name each DOE defendant individually or corporately as it becomes  
23 known. Plaintiff alleges that each DOE defendant was in some manner  
24 responsible for the acts and omissions alleged herein and Plaintiff will amend the  
25 complaint to allege such responsibility when the same shall have been ascertained  
26 by Plaintiff.

27 ///

28 ///



1 her status as an employee, because of her sex, female, under § 703(a) of Title VII,  
2 42 U.S.C. § 2000e-2(a).

3 13. The unlawful employment practices complained of above were  
4 intentional.

5 14. The unlawful employment practices complained of above were done  
6 with malice or with reckless indifference to the federally protected rights of the  
7 Charging Party.

8 15. Defendants have acted with malice or reckless indifference to the  
9 federally protected rights of the Charging Party by subjecting her to  
10 discrimination and harassment consisting of sexually charged conduct,  
11 unwelcome and uninvited sexual contact, sexual comments, and sexual jokes on a  
12 near daily basis. In addition, the Charging Party was retaliated against when she  
13 tried to make a complaint.

14 16. As a direct and proximate result of the aforesaid acts of Defendants, the  
15 Charging Party has suffered emotional pain, suffering, inconvenience, loss of  
16 enjoyment of life, humiliation, and damages, according to proof.

17 PRAYER FOR RELIEF

18 Wherefore, the Commission respectfully requests that this Court:

19 A. Grant a permanent injunction enjoining Defendants, its officers,  
20 successors, assigns, and all persons in active concert or participation with it, from  
21 engaging in any employment practice which discriminates on the basis of sex or  
22 retaliating against any individual for attempting to protect his or her rights and  
23 engaging in a protected activity.

24 B. Order Defendants to institute and carry out policies, practices, and  
25 programs which provide equal employment opportunities for all persons  
26 regardless of sex and which will eradicate the effects of its past and present  
27 unlawful employment practices.  
28

1 C. Order Defendants to make whole the Charging Party by providing  
2 appropriate back pay with prejudgment interest, in amounts to be determined at  
3 trial, and other affirmative relief necessary to eradicate the effects of its unlawful  
4 employment practices, including, but not limited to, discrimination on the basis of  
5 sex.

6 D. Order Defendants to make whole the Charging Party by providing  
7 compensation for past and future pecuniary losses resulting from the unlawful  
8 employment practices described above, in an amount to be determined at trial.

9 E. Order Defendants to make whole the Charging Party by providing  
10 compensation for past and future nonpecuniary losses resulting from the unlawful  
11 practices complained of above, including, but not limited to emotional pain,  
12 suffering, inconvenience, loss of enjoyment of life, and humiliation, in an amount  
13 to be determined at trial.

14 F. Order Defendants to pay the Charging Party punitive damages for their  
15 malicious and reckless conduct based on the facts above, in an amount to be  
16 determined at trial.

17 G. Grant such further relief as the Court deems just and proper in the  
18 public interest.

19 H. Award the Commission its costs of this action.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

James L. Lee  
Deputy General Counsel

Gwendolyn Young Reams  
Associate General Counsel

Anna Y. Park  
Regional Attorney

Date: March  
~~February~~ 5, 2009

By: \_\_\_\_\_

Anna Y. Park  
Regional Attorney  
Attorneys for Plaintiff